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8 *California Department of Corrections and*  
*Rehabilitation*

9 IN THE UNITED STATES DISTRICT COURT  
10 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
11 OAKLAND DIVISION  
12

13 **JOHN ARMSTRONG, et al.,**

14 Plaintiffs,

15 v.

16 **GAVIN NEWSOM, et al.,**

17 Defendants.  
18  
19

Case No. 94-cv-02307 CW

**DECLARATION OF P. NGUYEN IN  
SUPPORT OF DEFENDANTS' SUR-  
REPLY TO PLAINTIFFS' MOTION FOR  
A PERMANENT INJUNCTION AT  
SEVEN PRISONS AND STATEWIDE**

20 I, P. Nguyen, declare:

21 1. I am employed with the California Department of Corrections and Rehabilitation  
22 (CDCR). I currently work at Mule Creek State Prison. I am a Correctional Officer. I am  
23 competent to testify to the matters set forth in this declaration and, if called upon by this Court, I  
24 could and would so testify. I submit this declaration in support of Defendants' Sur-Reply to  
25 Plaintiffs' Motion for an Injunction at Seven Prisons and Statewide.

26 2. On Thursday, August 27, 2020, I was performing my duties at Facility A, Building 5,  
27 Floor 1. I was on the second tier at Cell [REDACTED] when I observed Inmate [REDACTED]  
28 on the C-Section of the building. Inmate [REDACTED] appeared hostile as he declared that he was not

1 going to "lock up." Inmate [REDACTED] approached the podium with clenched fists, aggressively  
2 yelling at Officer Cook, "Fuck you. I am not locking up. Let's do this."

3 3. I saw Officer Medina gave Inmate [REDACTED] a direct order to lock up without success.  
4 Inmate [REDACTED] continued yelling obscenities, being disruptive, refusing to lock up with clenched  
5 fists, shouting, and displaying clear signs of aggression.

6 4. I observed Officers Medina and Cook start walking towards Inmate [REDACTED] Inmate  
7 [REDACTED] suddenly sat on the ground.

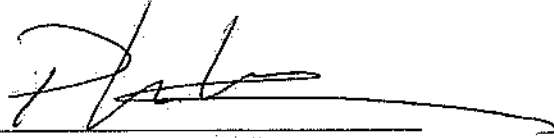
8 5. I immediately responded to the area of the disturbance by going down the C-Section  
9 stairs. I observed Officer Medina give orders to Inmate [REDACTED] to submit to handcuffs. As Officer  
10 Medina attempted to use his right hand to grasp Inmate [REDACTED] hands to put him in handcuffs,  
11 Inmate [REDACTED] pulled away. He was now facing Officer Medina with clenched fists. Inmate [REDACTED]  
12 continued to clench his fists and yelled, "No, fuck you. Don't touch me!" 6. I observed Officer  
13 Cook give Inmate [REDACTED] multiple orders to stop resisting and to submit to handcuffs. I also gave  
14 Inmate [REDACTED] multiple orders to stop resisting. Inmate [REDACTED] continued resisting by thrashing his  
15 body and pulling his hands away from staff. Officers Cook and Medina used physical strength to  
16 force Inmate [REDACTED] on to his stomach. Inmate [REDACTED] continued to resist submitting to handcuffs  
17 by placing his arms underneath his stomach and refusing to allow the officers to gain control of  
18 his arms so that they could place him in handcuffs.

19 7. Eventually, Officer Cook was able to gain control of Inmate [REDACTED] left hand and  
20 secure it behind his back. Officer Cook used his left hand to hold down Inmate [REDACTED] shoulder.  
21 Officer Medina gained control of Inmate [REDACTED] right arm, used his left hand to grab the  
22 handcuffs, and placed both of Inmate [REDACTED] hands in handcuffs.

23 8. Inmate [REDACTED] continued his aggressive behavior by thrashing his legs and also  
24 shouting in the Dayroom. Officer Cook placed [REDACTED] in leg restraints. Responding staff arrived  
25 and escorted Inmate [REDACTED] to the program office. As I was monitoring the inmates in the  
26 Dayroom, I did not know which officers escorted Inmate [REDACTED] to the Program Office. I resumed  
27 my duties.  
28

1           9. I wrote an incident report documenting this incident the same day, August 27, 2020.  
2 Attached to this declaration as **Exhibit A** is a true and correct copy of my report. This report  
3 accurately describes what I observed that day, and I incorporate the contents of my report into this  
4 declaration by reference.

5           I declare under penalty of perjury that the foregoing is true and correct. Executed on  
6 November 12, 2020, in Ione, California.

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8 P. Nguyen, Correctional Officer  
9 Mule Creek State Prison  
10 California Department of Corrections and Rehabilitation  
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# **EXHIBIT A**

CDCR

## INCIDENT REPORT PACKAGE

PAGE: 26

REPORT NO. [REDACTED]

INCIDENT LOG NUMBER: [REDACTED]

PROCESSED: 10/02/2020 12:42

REQUESTOR: E. Laird

## STAFF NARRATIVE

STAFF NAME: Nguyen, P [REDACTED]

NARRATIVE TYPE: Initial Report

CREATED DATE: 08/27/2020

CREATED TIME: 14:22:23

## NARRATIVE

On Thursday, August 27, 2020, at approximately 0824 hours, while performing my duties as Facility "A" Building 5 Floor 1, I was on the second tier at cell 225 when I observed inmate [REDACTED] ( [REDACTED] ) on the C-Section of the building. [REDACTED] appeared hostile as he declared that he is not going to lock up. [REDACTED] approached the podium with clinched fists as he aggressively yelled directly at Officer Cook stating, "Fuck you. I am not locking up. Let's do this." Officer Medina gave inmate [REDACTED] a direct order to lock up without success. Inmate [REDACTED] continued yelling obscenities, being disruptive, refusing to lock up clinched fists, shouting, and displaying a clear signs of aggression. I observed Officer Medina and Officer Cook start walking towards inmate [REDACTED]. Inmate [REDACTED] suddenly sat on the ground. I immediately stopped and responded down the C-Section stairs and to the area of disturbance. I observed Officer Medina give orders to inmate [REDACTED] to submit to handcuffs. As officer Medina attempted to use his right hand to grasp inmate [REDACTED] hands to put him in handcuffs, inmate [REDACTED] pulled away and now facing Medina with clinched fists. Inmate [REDACTED] continued yelling "No, fuck you. Don't touch me!" as his fists were clinched. I observed Officer Cook give inmate [REDACTED] multiple orders to stop resisting and to submit to handcuffs. I also gave inmate [REDACTED] multiple orders to stop resisting. Inmate [REDACTED] continued resisting by thrashing his body and pulling his hands away from staff. Officer Cook and Medina used physical strength to force [REDACTED] on his stomach. [REDACTED] continued to resist submitting to handcuffs by placing his arms underneath his stomach, not allowing the Officers to gain control of his arms in order to place him in handcuffs. Eventually, Officer Cook was able to gain control of [REDACTED] left hand and secure it behind his back. Officer Cook used his left hand to hold down [REDACTED] shoulder. Officer Medina gained control of [REDACTED] right arm and used his left hand to grab his handcuff and placed both of [REDACTED] hands in handcuffs. [REDACTED] continued his aggressive behavior by thrashing his legs and also shouting in the dayroom. Officer Cook placed [REDACTED] in leg restraints. Responding staffs arrived and escorted [REDACTED] to the program office. Due to my focus on the dayroom, I am unaware of the officer that escorted [REDACTED] to the program Office. I resumed my duties as Facility "A" Building 5 Floor 1.

P. Nguyen

DATE: 08/27/2020

STAFF SIGNATURE

BADGE #: 84798

PERNR: 92024

NARRATIVE REVIEWED: Yes

REVIEWED BY STAFF: Mctaggart, K [REDACTED]

REVIEWED DATE: 08/27/2020

REVIEWED TIME: 14:57:47

CDCR

## INCIDENT REPORT PACKAGE

PAGE: 27

REPORT NO. [REDACTED]

INCIDENT LOG NUMBER: [REDACTED]

PROCESSED: 10/02/2020 12:42

REQUESTOR: E. Laird

## STAFF NARRATIVE

**STAFF NAME:** Nguyen, P  
**CREATED DATE:** 09/01/2020

**NARRATIVE TYPE:** Supplemental Report  
**CREATED TIME:** 09:02:36

## NARRATIVE

Q1. In your report you stated, "Officer Cook and Medina used physical strength to force [REDACTED] on his stomach." Describe how Officer Cook and Medina used force.

- Officer Cook used force by using his left hand to grasp onto [REDACTED] left shoulder to press [REDACTED] onto his stomach. Officer Medina used force by using his right hand to grab [REDACTED] right wrist as [REDACTED] was actively resisting.

Q2. In your report you stated, "Eventually, Officer Cook was able to gain control of [REDACTED] left hand and secure it behind his back. Officer Cook used his left hand to hold down [REDACTED] shoulder." Did you observe Officer Cook use force when gaining control of inmate [REDACTED] left hand and securing it behind his back and holding down inmate [REDACTED]'s shoulder?

- Yes, Officer Cook used force by using his left hand to grasp onto [REDACTED] shoulder to prevent his body from jerking and pushing himself off the ground. Officer Cook also used force by using his right hand to hold inmate [REDACTED] wrist and securing it behind his back as it [REDACTED] was resisting and attempting to pull away.

Q3. In your report you stated, "Officer Medina gained control of [REDACTED] right arm and used his left hand to grab his handcuff and placed both of [REDACTED] hands in handcuffs." Did you observe Officer Medina use force when gaining control of inmate [REDACTED] right arm and place inmate [REDACTED] in handcuffs? How did Officer Medina gain control of inmate [REDACTED] right arm?

- Yes, Officer Medina used force to gain control of [REDACTED] right arm by using his right hand to grasp [REDACTED] right wrist to prevent it from jerking and pulling away.

Q4. In your report you stated, "[REDACTED] continued his aggressive behavior by thrashing his legs and also shouting in the dayroom. Officer Cook placed [REDACTED] in leg restraints." At what point did inmate [REDACTED] stop resisting?

- [REDACTED] stopped resisting after he was placed in leg restraints. The aggressive shouting continued until he was escorted out of the building.

P. Nguyen  
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**DATE:** 09/01/2020

STAFF SIGNATURE

**BADGE #:** 84798

**PERNR:** 92024

**NARRATIVE REVIEWED:** Yes

**REVIEWED BY STAFF:** Mctaggart, K [REDACTED]

**REVIEWED DATE:** 09/01/2020

**REVIEWED TIME:** 10:29:31